

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK



TYRONE MCDOWELL,

Plaintiff,

v.

21-CV-338 (JLS) (JJM)

DENIS MCDONOUGH, Secretary
Department of Veterans Affairs,
BRIAN STILLER, DANIELLE
BERGMAN, GRACE
STRINGFELLOW,

Defendants.

DECISION AND ORDER

Plaintiff Tyrone McDowell commenced this action on March 3, 2021 alleging discrimination on the basis of race and color, harassment, and retaliation in violation of Title VII of the Civil Rights Act of 1964 ("Title VII"). Dkt. 1. On December 22, 2021, Defendants Bergman, Stiller, and Stringfellow moved to dismiss the Complaint. Dkt. 14. Plaintiff opposed Defendants' motion. Dkt. 24. Bergman, Stiller, and Stringfellow replied in further support of their motion. Dkt. 26. This Court referred the case to United States Magistrate Judge Jeremiah J. McCarthy for all proceedings under 28 U.S.C. §§ 636(b)(1)(A) and (B). Dkt. 17.

On August 1, 2022, Judge McCarthy issued a Report and Recommendation ("R&R") recommending that this Court grant the motion dismiss filed by Defendants Bergman, Stiller, and Stringfellow (Dkt. 14). Dkt. 37. Neither party

objected to the R&R, and the time to do so has expired. *See* 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(2).

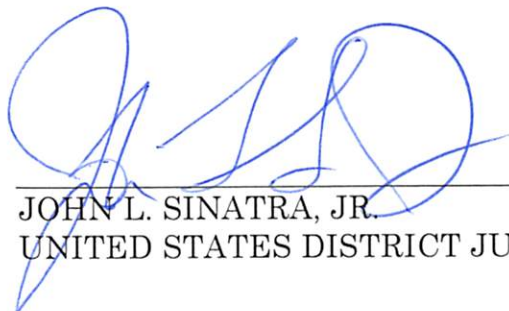
A district court may accept, reject, or modify the findings or recommendations of a magistrate judge. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(3). A district court must conduct a *de novo* review of those portions of a magistrate judge's recommendation to which a party objects. *See* 28 U.S.C. § 636(b)(1)(C); Fed. R. Civ. P. 72(b)(3). But neither 28 U.S.C. § 636 nor Federal Rule of Civil Procedure 72 requires a district court to review the recommendation of a magistrate judge to which no objections are raised. *See Thomas v. Arn*, 474 U.S. 140, 149–50 (1985).

Though not required to do so here, this Court nevertheless reviewed Judge McCarthy's R&R. Based on that review, and absent any objections, the Court accepts and adopts the R&R.

For the reasons stated above and in the R&R, the Court GRANTS these Defendants' motion to dismiss (Dkt. 14). All claims against Defendants Bergman, Stiller, and Stringfellow are dismissed. The Clerk of Court shall terminate Defendants Bergman, Stiller, and Stringfellow from the case. The case remains with Judge McCarthy for further proceedings consistent with the December 22, 2021 referral order (Dkt. 17).

SO ORDERED.

Dated: September 14, 2022
Buffalo, New York



JOHN L. SINATRA, JR.
UNITED STATES DISTRICT JUDGE